



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Horton *et al.*

Appl. No.: 09/557,907

Filed: April 21, 2000

For: **Methods for Treating Cancer
Using Cytokine-Expressing
Polynucleotides (as amended)**

Confirmation No.: 9397

Art Unit: 1632

Examiner: Wilson, Michael C.

Atty. Docket: 1530.0060004/EKS/EJH/PAC

**Fifth Supplemental Information Disclosure Statement
Under 37 C.F.R. § 1.97(b)**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98. The numbering on this Fifth Supplemental Information Disclosure Statement is a continuation of the numbering in Applicant's Second Supplemental Information Disclosure Statement filed on May 25, 2004 in connection with the above-captioned application. A copy of each document is provided.

Applicant reserves the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent

application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

This Information Disclosure Statement is being filed before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No statement or fee is required.

Documents AA3 to AD3, AO4 to AL5 and AS50 were cited in a search report by a foreign patent office in a counterpart foreign application. Submission of an English language version of the search report that indicates the degree of relevance found by the foreign office is provided in satisfaction of the requirement for a concise explanation of relevance. 1138 OG 37, 38.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.


Applicants would however, like to bring to the Examiner's attention document AS50, Kinoshita, Y., *et al.*, for which the month of publication could not be determined.

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Elizabeth J. Haanes, Ph.D.

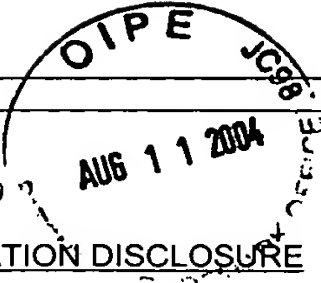
Attorney for Applicant

Registration No. 42,613

Date: August 11, 2004

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

Page 1 of 5



FORM PTO-1449

FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

ATTY. DOCKET NO. 1530.0060004/EKS/EJH/PAC	APPLICATION NO. 09/557,907
FIRST NAMED INVENTOR Horton <i>et al.</i>	
FILING DATE April 21, 2000	ART UNIT 1632

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA3	5,229,272	07/20/1993	Paul <i>et al.</i>			03/23/1990
	AB3	5,268,169	12/07/1993	Brandely <i>et al.</i>			04/13/1992
	AC3	5,314,995	05/24/1994	Fell, Jr., <i>et al.</i>			01/22/1990
	AD3	5,349,053	09/20/1994	Landolfi			06/10/1993
	AE3						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL						Yes No
	AM						Yes No
	AN4	CA 1 169 793	06/26/1984	Canada			Yes No
	AO4	WO 91/14438	10/03/1991	WIPO			Yes No
	AP4	WO 95/09917	04/13/1995	WIPO			Yes No

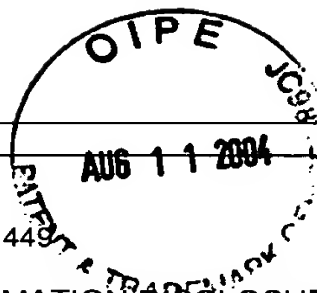
OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR		
	AS		
	AT	<u>47</u>	Beatty, J.D., <i>et al.</i> , "Liposomes as immune adjuvants: T cell dependence," <i>Surgery</i> 96:345-351, Mosby-Year Book (1984)

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.



FORM PTO-1449

FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENTATTY. DOCKET NO.
1530.0060004/EKS/EJH/PACAPPLICATION NO.
09/557,907FIRST NAMED INVENTOR
Horton *et al.*FILING DATE
April 21, 2000ART UNIT
1632

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL5	WO 97/30089	08/21/1997	WIPO			Yes No
	AM						Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No

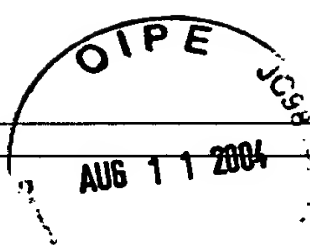
OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>48</u>	Cordell, B., <i>et al.</i> , "Isolation and Characterization of a Cloned Rat Insulin Gene," <i>Cell</i> 18:533-543, Cell Press (1979)
	AS	<u>48</u>	Gould-Fogerite, S., <i>et al.</i> , "Chimerasome-mediated gene transfer in vitro and in vivo," <i>Gene</i> 84:429-438, Elsevier Science Publishers B.V. (1989)
	AT	<u>48</u>	Hsu, M.J. and Juliano, R.L., "Interactions of Liposomes with the Reticuloendothelial System. II. Nonspecific and Receptor-Mediated Uptake of Liposomes by Mouse Peritoneal Macrophages," <i>Biochim. et Biophys. Acta</i> 720:411-419, Elsevier Biomedical Press (1982)

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.



FORM PTO-1449

FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENT

ATTY. DOCKET NO.
1530.0060004/EKS/EJH/PAC

APPLICATION NO.
09/557,907

FIRST NAMED INVENTOR
Horton *et al.*

FILING DATE
April 21, 2000

ART UNIT
1632

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

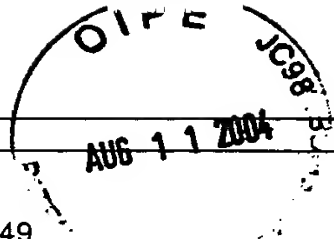
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL						Yes No
	AM						Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No

OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>49</u>	Malone, R.W., <i>et al.</i> , "Cationic liposome-mediated RNA transfection," <i>Proc. Natl. Acad. Sci. USA</i> 86:6077-6081, National Academy of Sciences (1989)
	AS	<u>49</u>	Nicolau, C., <i>et al.</i> , " <i>In vivo</i> expression of rat insulin after intravenous administration of the liposome-entrapped gene for rat insulin I," <i>Proc. Natl. Acad. Sci. USA</i> 80:1068-1072, National Academy of Sciences (1983)
	AT	<u>49</u>	Rammensee, H.-G., <i>et al.</i> , "Protein-specific cytotoxic T lymphocytes. Recognition of transfectants expressing intracellular, membrane-associated or secreted forms of β -galactosidase," <i>Immunogenet.</i> 30:296-302, Springer-Verlag (1989)

EXAMINER	DATE CONSIDERED
----------	-----------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.



FORM PTO-1449		Page 4 of 5	
FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT		ATTY. DOCKET NO. 1530.0060004/EKS/EJH/PAC	
		APPLICATION NO. 09/557,907	
		FIRST NAMED INVENTOR Horton <i>et al.</i>	
		FILING DATE April 21, 2000	ART UNIT 1632

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

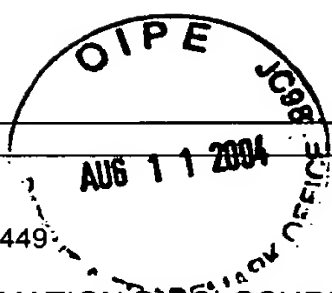
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL						Yes No
	AM						Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No

OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>50</u>	Sutcliffe, J.G., "Nucleotide sequence of the ampicillin resistance gene of <i>Escherichia coli</i> plasmid pBR322," <i>Proc. Natl. Acad. Sci. USA</i> 75:3737-3741, National Academy of Sciences (1978)
	AS	<u>50</u>	Database EMBASE, Accession No. 1997118387, English abstract of Kinoshita, Y., <i>et al.</i> , "The possibility of gene immunotherapy for tumor using in vivo lipofection procedure," <i>Biotherapy</i> 11:448-450, Elsevier Science B.V. (1997)
	AT	<u>50</u>	Copy of International Search Report for International Patent Application No. PCT/US97/01420, mailed June 2, 1997

EXAMINER	DATE CONSIDERED
----------	-----------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.



FORM PTO-1449

FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE
STATEMENTATTY. DOCKET NO.
1530.0060004/EKS/EJH/PACAPPLICATION NO.
09/557,907FIRST NAMED INVENTOR
Horton *et al.*FILING DATE
April 21, 2000ART UNIT
1632

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL						Yes No
	AM						Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No

OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>51</u>	Copy of European Search Report for European Patent Application No. EP 03 01 2772, mailed June 21, 2004
	AS		
	AT		

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.